

I. NEEL CHATTERJEE (STATE BAR NO. 173985)
nchatterjee@orrick.com
MICHAEL APARICIO (STATE BAR NO. 206300)
maparicio@orrick.com
DANIEL J. WEINBERG (STATE BAR NO. 227159)
dweinberg@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: 650-614-7400
Facsimile: 650-614-7401

Attorneys for Defendants
LANCE TOKUDA, JIA SHEN, AND NETPICKLE, INC.

KENNETH A. KUWAYTI (CA BAR NO. 145384)
ERIC S. WALTERS (CA BAR NO. 151933)
kkuwayti@mofo.com
MORRISON & FOERSTER LLP
744 Page Mill Rd.
Palo Alto CA 94304-1018
Telephone: 650-813-5600
Facsimile: 650-494-0792

Attorneys for Plaintiff/Cross-defendant
ICONIX, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ICONIX, INC.,

Plaintiff,

v.

LANCE TOKUDA, JIA SHEN, and
NETPICKLE, INC.,

Defendants.

Case No. C06-02201 SBA (JCS)

**STIPULATION AND ~~PROPOSED~~
ORDER GRANTING CONDITIONAL
DISMISSAL**

1 WHEREAS, on November 17, 2006, Plaintiff Iconix, Inc. ("Iconix") and Defendants
2 netPickle, Inc., Lance Tokuda and Jia Shen (collectively, "Defendants") reached a settlement
3 agreement (the "Settlement Agreement") which cannot be fully performed until 100 days from
4 the filing of this stipulation;

5 WHEREAS, the parties wish to dismiss the action upon the completion of that 100 day
6 period, conditioned upon the prior satisfaction of all conditions which need to be satisfied under
7 the Settlement Agreement within the 100 day period;

8 NOW, THEREFORE,

9 1. Pursuant to the terms set forth below, the parties stipulate to conditionally dismiss
10 all of the claims and counterclaims in this action one hundred days from the entry of this Order.

11 2. This dismissal is subject to the satisfaction in full of all conditions which need be
12 satisfied within 100 days set forth in the parties' Settlement Agreement as conditions precedent to
13 the dismissal.

14 3. During this 100 day period and while this conditional dismissal is in effect, all
15 matters currently before the Court in this action shall be taken off calendar, all dates set by the
16 Court are vacated, and neither party shall pursue discovery or file motions in this action unrelated
17 to this stipulation.

18 4. Once the 100 day period has passed and the conditions precedent identified in
19 paragraph 2 above have been satisfied either party may so inform the Court, and this conditional
20 dismissal shall become a final dismissal with prejudice of all claims and counterclaims pursuant
21 to Federal Rule of Civil Procedure 41(a)(1), with each party to bear its own costs and fees.

22 ///

23 ///

1 Dated: January 9, 2007

MORRISON & FOERSTER LLP

3 /s/ Kenneth A. Kuwayti /s/

4 Kenneth A. Kuwayti
5 Attorneys for Plaintiff
6 ICONIX, INC.

6 Dated: January 9, 2007

ORRICK, HERRINGTON & SUTCLIFFE LLP

8 /s/ I. Neel Chatterjee /s/

9 I. Neel Chatterjee
10 Attorneys for Defendants
11 LANCE TOKUDA, JIA SHEN, AND
12 NETPICKLE, INC.

12 **Filer's Attestation:** Pursuant to General Order No. 45, §X(B), I attest under penalty of
13 perjury that concurrence in the filing of the document has been obtained from its signatory.

14 Dated: January 9, 2007

Respectfully submitted,

15 /s/ I. Neel Chatterjee /s/

16 I. Neel Chatterjee

17
18 **ORDER**

19 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

20 Dated: January 10, 2007

21 
22 United States District Judge